

1655 AF
K45 B. Webb
1/3/01

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Riviere et al.

Appln. No.: 08/252,710

Filed: 2 June 1994

Group Art Unit: 1655

Examiner: J. Fredman

For: RETROVIRAL GENE THERAPY VECTORS AND
THERAPEUTIC METHODS BASED THEREON

REPLY BRIEF UNDER 37 C.F.R. 1.193

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I reply to the Examiner's Answer mailed 26 October 2000, Appellants herein reply to new points raised therein.

Appellants have presented evidence and the Examiner concurred, along with evidence, that the art recognized the concept of a consensus splice acceptor site prior to the filing of the instant application.

On page 5, the Examiner referred to MPEP 2163.04. Regarding the second prong of the test, Appellants disagree the Examiner has satisfied that element.

Because a consensus represents the "average" deduced sequence, by definition a splice acceptor as taught in the instant specification is one that comports with the consensus splice acceptor. While a particular splice acceptor can have a sequence identical to a consensus, it is

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more likely that the sequence of a particular splice acceptor instead would fall under the umbrella of the generic consensus. For example, a consensus may have at a site, more than one possible base, such as a pyrimidine, and the particular acceptor might have a T or a C at that site.

Moreover, as noted at page 15 of the specification, a splice acceptor is situated as close to and upstream from the insertion site of the gene of interest for proper splicing.

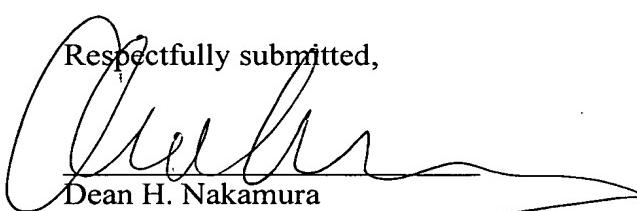
Thus, an artisan who reads the specification and notes that a vector of interest contains a splice acceptor or a particular splice acceptor at a particular locus in the vector, clearly would recognize, absent evidence to the contrary, that those contain the consensus or fall within the scope of the consensus.

At the bottom of page 5, the Examiner asked whether MOV-9 is a consensus sequence.

Perhaps a more relevant inquiry is whether the MOV-9 splice acceptor has a sequence that falls within the definition of the consensus. Because the consensus is derived from individual splice acceptor sites, any one splice acceptor site is inherently a member of the consensus, absent evidence to the contrary.

Consensus, thus is coextensive with the disclosure that teaches a splice acceptor.

Respectfully submitted,


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